

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

APPLIED MATERIALS, INC.,

Plaintiff,

v.

No. 14-CV-1346
(GTS/CFH)

TERRY BURKS,

Defendant.

**CHRISTIAN F. HUMMEL
U.S. MAGISTRATE JUDGE**

ORDER

By letter dated December 22, 2014, the attorneys for the non-party, Chad Fitchner, requested that the Court schedule a discovery conference. Dkt. No. 19. By letter dated December 22, 2014, plaintiff also requested that a discovery conference be scheduled. Dkt. No. 21.

On December 29, 2014, the attorneys for the non-party Westerwood Global USA LLC filed a letter requesting that a conference be scheduled to address a subpoena purportedly served on Westerwood Global USA LLC. Dkt. No. 24. On December 30, 2014, this Court issued a Text Order scheduling a discovery conference for January 20, 2015. Dkt. No. 25.

On January 14, 2015, the non-party Westerwood Global USA LLC filed a letter addressing certain discovery-related issues. Dkt. No. 32. By letter dated January 16, 2015, plaintiff addressed the discovery issues to be considered by the Court at the January 21, 2015 discovery conference. Dkt. No. 35.

By letter dated January 22, 2015, the attorney for the non-party Westerwood Global USA

LLC addressed the issue of the confidential files of the non-party Lam Research Corporation in plaintiff's possession. Dkt. No. 36. On January 22, 2015, plaintiff filed a letter addressing the issue of the files of the non-party Lam Research Corporation.

A discovery conference was conducted on the record on January 20, 2015 with counsel for all parties, as well as counsel for non-parties Chad Fitchner and Westerwood Global USA LLC. A second discovery conference was conducted on the record on January 23, 2015 with counsel for all parties and counsel for the non-parties Chad Fitchner and Westerwood Global USA LLC. As directed during those conferences, and for the reasons stated on the record, which are incorporated herein by reference, it is hereby **ORDERED**:

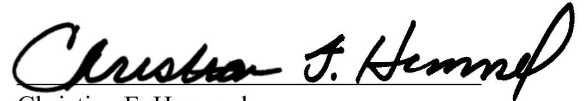
- (1) That the Rule 16 conference shall proceed as scheduled on **February 3, 2015**;
- (2) The deposition of the non-party Chad Fitchner shall be conducted on or before **March 13, 2015**. The attorneys shall confer and agree on what documents, if any, shall be produced by Chad Fitchner at that time;
- (3) The deposition of a representative of the non-party Westerwood Global USA LLC shall be conducted on or before **March 13, 2015**. The attorneys shall confer and agree on what documents will be produced at that time;
- (4) Defendant is granted leave to file a motion to dismiss on or before **February 2, 2015**. The response shall be filed by **February 23, 2015**. Defendant's reply shall be filed by **February 27, 2015**. The return date of that motion is **March 5, 2015** on submission;
- (5) The non-party Westerwood Global USA LLC is granted leave to file a motion seeking a protective order and the return of a Westerwood Global USA LLC-owned Lenovo laptop computer currently in the possession of plaintiff or its agents. The non-party

Westerwood Global USA LLC shall file such motion by **February 2, 2015**. The response shall be filed by **February 23, 2015**. The return date of that motion is **March 5, 2015** on submission. The plaintiff may not conduct any further discovery on that Lenovo laptop computer pending further Court order;

(6) Plaintiff may transmit to the non-party Lam Research Corporation any confidential proprietary files belonging to Lam Research Corporation which were discovered by plaintiff on the Westerwood Global USA LLC-owned Lenovo laptop computer. Plaintiff shall provide a list of such files to defendant and the non-party Westerwood Global USA LLC, as well as the meta data.

IT IS SO ORDERED.

Date: January 23, 2015
Albany, New York


Christian F. Hummel
U.S. Magistrate Judge